THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 18281 OF 2007

Dated 31st August 2007

Between:

Jamia Nizamia, rep.by its Secretary
Syed Ahmed Ali

…Petitioner

and

The A.P.State Wakf Board,
Rep.by its Chief Executive Officer,
Hyderabad, & others

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 18281 OF 2007

O R D E R:

The petitioner feels aggrieved by the inaction of the 1st respondent, on the representation made by it on 23.2.2006, in respect of Acs.510-35 guntas of land, in Survey No.83 of Raidurg village of Serilingampally Mandal, Ranga Reddy District. Petitioner claims to be a Wakf. It is stated that one Nawab Ghazi Yar Jung Bahadur had endowed the said land, in favour of the petitioner, through a document dated 10.3.1958, and that ever since then, the petitioner is in possession and enjoyment of the said property. The further contention of the petitioner is that it has been registered as a Wakf, and thereby became Institution, governed by the provisions of Wakf Act 1954, and thereafter, the Wakf Act 1995. The petitioner has narrated the manner in which the land came to be endowed, in its

favour.

It is stated that without any intimation to the petitioner, the Special Officer, Urban Land Ceiling Authority, the 4th respondent, had processed a declaration filed in respect of the land in Survey No.83, under the Urban Land (Ceiling and Regulation)
Act, 1976 (for short "ULC Act"), and declared the land, as being in excess of ceiling limits. Petitioner further contends that after issuing different notifications under Sections 10 and 11 of ULC Act, the Government allotted the land initially, in favour of the Hyderabad Urban Development Authority, and thereafter, in favour of A.P. Infrastructure Industrial Corporation Limited, the
3rd respondent herein, under G.O.Ms.No.161, dated 13.2.2006. The petitioner claims to have made a representation, dated 23.2.2006, requesting the District Collector, Ranga Reddy District, the 2nd respondent, to stop survey work of the Wakf land, and stated that it cannot be allotted, alienated, or distributed, to any other authority, be it by the Government or by any private individual, without the permission and consent of the Wakf Authorities. It is complained that no action has been taken thereon.

Learned counsel for the petitioner submits that the land in question belongs to the petitioner wakf, and the respondents are neither entitled to, nor justified in dealing with the property, detrimental to the interests of the petitioner. He had made reference to the various provisions of the Wakf Act, 1995, the deed under which the land was endowed in favour of the petitioner, and other documents, which had a bearing on the matter.

Sri S.M.Subhani, learned Standing Counsel for the A.P. Wakf Board, the 1st respondent, submits that the land had vested in the

Wakf Board, as well as the petitioner Institution, by operation of law, and the various proceedings that have ensued under the ULC Act, do not have the effect of defeating the rights of the Wakf Board and the petitioner. Placing reliance upon the judgment of the Supreme Court i n ***CHEDDI LAL MISRA (DEAD) THROUGH LRS v. CIVIL JUDGE, LUCKNOW & OTHERS***[1], he submits that once a property had vested in the wakf, it does not cease to be so, except by proceedings initiated under law, or by act of parties, and in the instant case, no such eventuality has taken place.

Sri Altaf Ahmed, learned Senior Counsel, appearing for the 3rd respondent, submits that the land in question was declared as excess, under the ULC Act, way back in the year 1981, and thereafter, the Government had allotted it to various statutory agencies, and as of now, it is allotted to the 3rd respondent. He submits that an integrated I.T. project has been formulated to be grounded on the land in question; and with the approval of the State Government, steps have been taken to invite bids from the intending entrepreneurs. Learned Senior Counsel further submits that this very land was the subject matter of writ petition Nos. 4121 of 2006 & batch, and a Division Bench of this Court, through its judgment dated 17.1.2007, had upheld the right and entitlement of the 3rd respondent, to develop and deal with the land. It is brought to the notice of the court that against the judgment of this court, S.L.P.No.2852 of 2007 was filed and the Hon'ble Supreme Court had refused to stay the sale of the land, by observing that any sale would be subject to the further orders that may be passed by the Supreme Court. It is urged that once the matter is pending in the Supreme Court, this writ petition cannot be entertained.

Learned Government Pleader for Revenue submits that the petitioner cannot ignore the legal consequences, that emerged by

operation of law, and if the petitioner is so advised, it has to get itself impleaded in the proceedings pending in the Supreme Court, and canvass its remedies.

The petitioner based its claim on a Deed of Wakf, said to have been executed by Nawab Ghazi Yar Jung Bahadur on 10.3.1958. The claim of the petitioner is supported by the A.P. Wakf Board, and it is stated that once the property is registered as belonging to a Wakf, it cannot be dealt with even by the Government, detrimental to the interests of the Wakf, in whose favour it was endowed.

Had the state of affairs remained static, at the stage of endowment of the property in favour of the petitioner, this court would certainly have examined the feasibility of adjudicating the rights canvassed by the petitioner. Several steps have taken place by operation of law. Some persons, claiming to be the descendants of Nawab Ghazi Yar Jung Bahadur filed a declaration under Section 6 of ULC Act, in respect of the land in Sy.No.83. After processing the same, the 4th respondent passed an order dated 25.1.1980, under Section 8(4) of the said Act. Thereafter, the Government issued notification under Section 10(2) of ULC Act, in G.O.Ms.No.5013, Revenue Department, dated 19.12.1980, inviting objections. This was followed by a Notification under Section 10(3), dated 24.1.1981. With this, the land vested in the Government free from all encumbrances. Subsequent steps, under Section 10(5) and 10(6) of ULC Act, were also taken.

Initially, the excess land so vested was allotted to the Hyderabad Urban Development Authority. Subsequently, the Government issued G.O.Ms.No.161, Revenue Department, dated 13.2.2006, allotting the same to the 3rd respondent. Therefore, whatever be the strength of the claim of the petitioner, based on the provisions of the Wakf Act, or the Wakf Deed, said to have been

executed in its favour by Nawab Ghazi Yar Jung Bahadur, this court cannot ignore the statutory proceedings that ensued over the past 2½ decades, and the legal consequences flowing therefrom.

The second aspect of the matter is that the implication and affect of the proceedings referred to above, was considered by a Division Bench of this Court, and the right of the 3rd respondent *vis-à-vis* the land was upheld. In the form of a Special Leave Petition, the matter is now pending before the Supreme Court. It may be true that the petitioner is not a party to those proceedings. However, even now, it is not too late for the petitioner to get itself impleaded in the said proceedings and put forward its contentions. The rights of the parties to the SLP were already protected by the Supreme Court, by directing that the sale of the land if any, made by the 3rd respondent, shall be subject to further orders. Therefore, this court does not feel it appropriate or proper, to entertain the writ petition.

Hence, the writ petition is dismissed, leaving it open to the petitioner, or the 1st respondent, to get themselves impleaded in the proceedings that are pending before the Supreme Court and canvass their rights. There shall be no order as to costs.

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31st August 2007

Note: Issue C.C. in one week.
(B/o)
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[1] 2007(2) SUPREME 236